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TITLE 1

COMMUNITY COURT GENERAL RULES

Chapter 1.01 Establishment of the Court

1.01.01 Establishment of Court

There is hereby established for the Port Gamble S'Klallam Reservation in Washington a court to be known as the Port Gamble S'Klallam Community Court.

[HIST: Resolution No. 84 A 03, passed 2/14/84.]

Chapter 1.02 Jurisdiction

1.02.01 Port Gamble S'Klallam Jurisdiction Defined

The Port Gamble S'Klallam Community Court is vested with the fullest personal, subject matter and territorial jurisdiction permissible under applicable law.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to recognize the full extent of Port Gamble S'Klallam jurisdiction.]

1.02.02 Means to Carry Jurisdiction Into Effect

When jurisdiction is vested in the Community Court, all means necessary to carry it into effect are also given, and in the exercise of this jurisdiction, if the course of proceeding is not specifically pointed out by this Code, any suitable process may be adopted by the Court which is in harmony with the spirit of Tribal Law.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.4.04.]

1.02.03 Implied Consent

Entrance by any person onto the Port Gamble S'Klallam Reservation shall be construed to be an acceptance of the jurisdiction of the Community Court and a consent to such jurisdiction over his person concerning any legal action under this Code and shall be deemed consent to service of summons or process by registered mail with return receipt requested at his last known address. Implied consent notice shall be posted at ingress and egress areas.

[HIST: Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.14.01.]

Chapter 1.03 Appointment and Removal of Judges

1.03.01 Number of Judges

The Port Gamble S'Klallam Community Court shall consist of a Chief Judge appointed by the Port Gamble S'Klallam Tribal Council and Pro-Tem Judges assigned by the Northwest Intertribal Court System ("NICS"). All judges shall be selected from the NICS' roster and must meet the eligibility requirements of this code. The Chief Judge shall administer the general business of the Port Gamble S'Klallam Community Court.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amended by Resolution 13-A-056 on March 26, 2013, to require judges to be law-trained and licensed to practice law, clarify Orders are valid if the council fails to appoint a chief judge, and delegate authority to assign judges while the tribe is a member of NICS.]

1.03.02 Appointment and Term

The Chief Judge shall be appointed by Tribal Council to serve a term of one year. In any case that the term of the Chief Judge expires before Tribal Council reappoints the Chief Judge or appoints a new Chief Judge, he or she shall still act as the Chief Judge of the Community Court. Any judgments and orders issued by the Chief Judge during this time shall be valid opinions of the Community Court, until the Tribal Council appoints a new Chief Judge. The Chief Judge may be removed for cause or by reason of abolition of the office at any time but may be eligible for reappointment.

[HIST: Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. Amended by Resolution 13-A-056 on March 26, 2013, to require judges to be law-trained and licensed to practice law, clarify Orders are valid if the council fails to appoint a chief judge, and delegate authority to assign judges while the tribe is a member of NICS.]

1.03.03 Eligibility

A person must meet the following requirements in order to serve as a judge of the Port Gamble S'Klallam Community Court:

- 1) Be twenty-five (25) years of age or over;
- 2) Never have been found guilty of a felony;
- 3) Not have been found guilty of a misdemeanor involving moral turpitude within the previous year;
- 4) Be of high moral character;

- 5) Be a graduate from an ABA accredited law school;
- 6) Be licensed to practice law by a State Bar; and,
- 7) Members of Indian Tribes are preferred.

[HIST: Port Gamble S'Klallam Law and Order Code. Amended by Resolution 13-A-056 on March 26, 2013, to require judges to be law-trained and licensed to practice law, clarify Orders are valid if the council fails to appoint a chief judge, and delegate authority to assign judges while the tribe is a member of NICS.]

1.03.04 Judges Pro-Tem

The Port Gamble S'Klallam Tribal Council delegates authority to the Northwest Intertribal Court System to assign persons who meet the qualifications in this chapter to serve as trial Judges Pro-Tem.

[HIST: Port Gamble S'Klallam Law and Order Code. Amended by Resolution 13-A-056 on March 26, 2013, to require judges to be law-trained and licensed to practice law, clarify Orders are valid if the council fails to appoint a chief judge, and delegate authority to assign judges while the tribe is a member of NICS.]

1.03.05 Conflict of Interest

No judge shall be qualified to act as such in any case wherein he or she has any direct interest or wherein any relative by marriage or blood, in the first or second degree is a party.

[HIST: Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section adding "wherein any relative by marriage or blood, in the first or second degree is a party."]]

1.03.06 Removal of Judges

A judge may be suspended, dismissed or removed for cause by a two-thirds (2/3) vote of the Port Gamble S'Klallam Tribal Council. Before any such action is taken a hearing shall be held by the Tribal Council at which time the accused Judge shall be given an adequate opportunity to answer any and all charges and to call and question witnesses. Copies of a written statement setting forth the facts and reasons for such proposed action shall be delivered to the judge at least ten (10) days before the hearing. Causes judged sufficient for removal shall include, by way of example and not limitation; excessive use of intoxicants; immoral behavior; conviction of any offense other than minor traffic violation; use of official position for personal gain; desertion of office; or failure to perform duties. The decision of the Tribal Council shall not be subject to appeal. Any act or omission which would result in ineligibility for appointment shall be cause for removal of a judge already appointed, and his or her removal shall be effective upon notice by the Port Gamble S'Klallam Tribal Council.

[HIST: Port Gamble S'Klallam Law and Order Code.]

1.03.07 Judicial Officer

The Port Gamble S'Klallam Tribal Council may appoint a judicial officer to preside over arraignments, sign search warrants, swear in police officers, swear in Tribal Council officers, act as a liaison between the court and tribal members and perform other duties as requested by the Tribal Council. The judicial officer shall serve for such term and for such compensation as shall be determined by the Tribal Council.

[HIST: Port Gamble S'Klallam Law and Order Code.]

1.03.08 Acting Chief Judge

The Port Gamble S'Klallam Tribal Council Delegates authority to NICS to appoint a pro-tem judge from NICS' roster who meets the requirements of this code to be acting Chief Judge whenever the Chief Judge is on vacation, ill or otherwise unable to perform the duties of the office. The acting Chief Judge may exercise all the powers of the Chief Judge.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section, adding " judicial officer." This section was formerly numbered 1.4.01.]

1.03.09 Disqualification of Judge

A defendant, or other party, to any legal proceeding may accomplish one change of assignment of his case from one judge to another upon filing an affidavit of prejudice with the court, stating that the judge assigned to the case is prejudiced against his or her case. The affidavit shall be in writing and must be filed with the court before any trial action whatever has been taken by the initial judge. The second judge shall pass on the adequacy of any further affidavits of prejudice and enter the appropriate order, either hearing the case or reassigning it to another judge. An order denying any reassignment shall be deemed a final order and may be appealed from immediately. All further actions in the case will be stayed pending the outcome of the appeal.

[HIST: Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.4.4.]

1.03.10 Relationship with Northwest Intertribal Court System

All the provisions of this code relating to the Northwest Intertribal Court System shall be in effect only as long at the Port Gamble S'Klallam Tribe is a member of the Northwest Intertribal Court System or contracts with the Northwest Intertribal Court System for such services. In the absence of such a relationship with the Northwest Intertribal Court System, all

duties delegated to the Northwest Intertribal Court System shall return to the Port Gamble S'Klallam Tribal Council and the requirement that Judges be appointed from NICS' roster shall no longer be in effect.

[HIST: Approved by Resolution 13-A-056 on March 26, 2013, to require judges to be law-trained and licensed to practice law, clarify Orders are valid if the council fails to appoint a chief judge, and delegate authority to assign judges while the tribe is a member of NICS.]

Chapter 1.04 Clerk and Records

1.04.01 Clerk of the Court

The Tribal Council shall appoint a clerk of the Court. The clerk shall be under the supervision of the judicial officer. The clerk's duties shall include: giving assistance to the Court, tribal police and tribal members in drafting complaints, subpoenas, warrants, commitments, and other documents incidental to the lawful function of the court. The clerk shall attend all proceedings of the court and keep a taped record of the proceedings. The clerk shall perform other duties as designated by the Chief Judge and judicial officer. The clerk shall be covered by the blanket bond provided for all tribal employees before commencing his or her duties.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.11.1.]

1.04.02 Records

The Community Court shall keep a record of all proceedings reflecting the title of the case, names of parties, substance of the complaints, names and addresses of all witnesses, date of hearing or trial, presiding judge, findings of the court and jury, judgment, written opinion and other facts important to the case. The records shall be kept in the Community Court office for the Court's information and for inspection by duly qualified officials.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84.]

1.04.03 Copies of Laws

The Community Court shall be provided with copies of this Code, all ordinances of the General Council and Tribal Committee and any regulations which are applicable to the conduct of the business of the Court.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.11.03.]

Chapter 1.05 Spokespersons

1.05.01 Spokespersons Appearing in Community Court

Any person appearing in Community Court shall have the right to a spokesperson at his own expense, to assist him in presenting his case, provided that such spokesperson shall first have to be admitted to the Community Court Bar. The Court may appoint a spokesperson to assist any person if, in the discretion of the Court, it appears necessary to protect such a person's rights under Port Gamble S'Klallam Law. A spokesperson need not be an attorney.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly.]

1.05.02 Community Court Bar-Admission

To be admitted to the Community Court Bar, a person must:

- 1) Be of good moral character;
- 2) Submit an application to the Community Court;
- 3) Be at least eighteen (18) years of age;
- 4) Be approved by the Community Court;
- 5) Sign and take a Spokesperson's Oath, and
- 6) Pay the Community Court Bar admission fee.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.9.02. Amended by Resolution No. 15-A-070, passed 6/8/15, to add requirement that a person must submit an application to the Community Court and that a person must be eighteen (18) years old to be admitted.]

1.05.03 Spokesperson's Oath

The oath that all persons desiring to appear as spokespersons in the Community Court shall take is as follows:

SPOKESPERSON'S OATH

" I, _____, desire to appear as counsel in the Port Gamble S'Klallam Community Court and do solemnly swear:

1. I will read the Port Gamble S’Klallam Tribe Law and Order Code and be familiar with those portions of the Code that apply to my practice before the Court.
2. I will support the Constitution of the Port Gamble S’Klallam Tribe in all respects.
3. I will abide by the rules established by the Port Gamble S’Klallam Tribe and by the Port Gamble S’Klallam Community Court.
4. I will at all times maintain the respect due the Port Gamble S’Klallam Community Court and its officers and staff.
5. I will not appear in any suit or proceeding which shall appear to me to be unjust, nor shall I present any defense except as I believe to be honestly debatable under Port Gamble S’Klallam law.
6. I will employ such means only as are consistent with truth and honor and will never seek to mislead the Court or jury by false statements in Court or any other judicial proceedings.
7. I will abstain from all offensive conduct in the Community Court or in any other judicial proceeding.
8. I shall uphold and maintain a CODE OF ETHICS consistent with licensed attorneys in the State of Washington whenever practicing before the Port Gamble S’Klallam Community Court or in any other judicial proceeding.

Signature

SUBSCRIBED AND SWORN before me this ___ day of _____, ____

Judge

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.9.03. Amended by Resolution No. 15-A-070, passed 6/8/15, to clarify that the person taking the oath swears to be familiar with the portions of the Code that apply to that person’s practice before the Court and to add the requirement that the person taking the oath shall uphold a code of ethics that is consistent with the code of ethics that binds attorneys licensed in Washington State.]

1.05.04 Tribal Court Roster

The Clerk of the Community Court will maintain a roster of all spokespersons admitted to practice before the Community Court. The Clerk will also keep on file the signed oaths of such persons.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.9.04.]

1.05.05 Community Court Bar Admission Fee

Every person wishing to be a spokesperson in the Community Court will pay an admission fee. A spokesperson shall not be admitted to the Community Court Bar without paying the admission fee. A judge may waive the Community Court Bar fee upon good cause shown.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section by increasing the bar fee and providing for copies of the Code to be given to Tribal bar admittees. This section was formerly numbered 1.9.05. Amended by Resolution No. 15-A-070, passed 6/8/15, to remove the specific \$15 admission fee that was collected for the purpose of maintaining a law library and to provide spokespersons with revisions of the Law and Order Code. In 2015, PGST does not maintain a law library and the Law and Order Code is online and spokespersons are no longer provided copies of the Code.]

1.05.06 Community Court Bar -Disbarment

Any spokesperson violating the Spokesperson's Oath shall be subject to disbarment. The Community Court judge shall prepare in writing a complaint against such spokesperson including reasons for disbarment. Within ten days of receipt of such complaint, the Tribal Council shall hold a hearing at which time the spokesperson involved may present witnesses and a defense of his action. The decision of the Tribal Council shall be final.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.9.06.]

1.05.07 Appeal

Any person denied admission to the Community Court Bar may appeal to a panel designated by the Tribal Council. Such panel shall be composed of three members of the Tribal Council. A person shall have the right to a hearing before such panel within 10 days of his denial and shall have the right to present witnesses and present a defense. The decision of a majority of the panel shall be final.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to clarify appeal procedures. This section was formerly numbered 1.9.08.]

Chapter 1.06 Contempt of Court

1.06.01 Contempt of Court - Civil

The Port Gamble S'Klallam Community Court may charge with civil contempt any person who neglects his duty or is guilty of other misconduct which is harmful to the rights of a party to an action. The following cases are illustrative of civil contempts but shall not limit the scope of this section:

- a) Willful neglect or violation of a duty or disobedience to any lawful order or process of the Community Court by an attorney, clerk or other person duly authorized to perform a judicial or ministerial service;
- b) Any disobedience to any lawful order or judgment or process of the Community Court by any person;
- c) Any deceit or abuse of the process or proceedings of the Community Court by a party to an action or proceeding;
- d) Any fraudulent or willful interference with the attendance or testimony of a witness to an action or proceeding;
- e) Failure to obey a subpoena, or attend, or to be sworn or to answer as a witness;
- f) Failure to appear as a juror in compliance with the notice of jury duty;
- g) Improperly conversing with a party or others on the merits of an action by a juror.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84.]

1.06.02 Contempt of Court - Civil Penalty

The Court may sentence any person guilty of a civil contempt as follows:

- a) If actual loss or injury has been suffered by a party by the misconduct of the guilty person the Court shall order him to pay a sum sufficient to compensate such party.
- b) If the misconduct was a failure to perform an act or duty which is yet in the power of the person to perform, the Court may order imprisonment until he has performed it, not to exceed 6 months, and until he has paid any fine imposed by the Court.

[HIST: Source - Resolution 84 A 03, passed 2/14/84.]

1.06.03 Contempt of Court - Criminal

The Port Gamble S'Klallam Community Court may charge with criminal contempt any person guilty of:

- a) Disorderly, contemptuous or insolent behavior which directly tends to interrupt the proceedings of the Court or which impairs the respect due to its authority;
- b) Any breach of peace, noise or other disturbance directly tending to interrupt the proceedings of the Court;
- c) Willful disobedience of any process or order lawfully issued or made by the Court;
- d) Resistance willfully offered to the lawful order or process of the Court;
- e) The unlawful refusal of any person to be sworn or affirmed, including refusal to answer any material questions except where refusal is based on valid legal grounds;
- f) The publication of a false or grossly inaccurate report of the proceedings of the Court;
- g) Any person who shall request a jury trial and fails to appear on the date the jury trial is scheduled.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section as part of this chapter's scheme of delineating civil and criminal contempt. This section was formerly numbered 1.6.06.]

1.06.04 Contempt of Court - Criminal Penalties

The Court may sentence a person guilty of criminal contempt of court to imprisonment for a period not to exceed 6 months or pay a fine not to exceed \$500.00, or both with costs.

[HIST: Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section as part of this chapter's scheme of delineating civil and criminal contempt. This section was formerly numbered 1.6.06.]

1.06.05 Contempt of Court - Notice to Contemnor

In any contempt proceeding whether civil or criminal, the alleged contemnor shall be entitled to reasonable notice and time to prepare a defense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84.]

1.06.06 Contempt of Court - Appeal

An appeal may be taken to the Port Gamble S'Klallam Court of Appeals from any final order finding a person guilty of a criminal or civil contempt.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84.]

Chapter 1.07 Definitions

1.07.01 Police

Unless otherwise specified, the term “ police” as used in this Code means a qualified Tribal Law Enforcement Officer, a police officer of the United States or Bureau of Indian Affairs

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly. This section was formerly numbered 1.12.01.]

1.07.02 Signature

The term “ signature” as used in this Code shall mean the written signature, official seal or the thumb print or mark of any individual.

[HIST: Source - Port Gamble S'Klallam Law and Order Code.]

Chapter 1.08 Rules of Construction

1.08.01 Rules of Construction

The following rules of construction apply to all provisions of the Law and Order Code unless a different meaning is obviously intended:

- a) Masculine words shall include feminine words and singular words shall include the plural, and vice versa.
- b) Words shall be given their plain meaning and technical words shall be given their commonly understood meaning where no other meaning is specified.
- c) Whenever the meaning of a term is not clear, it shall be construed harmoniously with the purpose of the Code and with the purposes of the title the term falls under.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84.]